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1 — Navajo Nation Seeking FEMA Help After Colorado Spill, BNA, 9/2/2015

http://news.bna.com/deln/DELNWB/split_display.adp?fedfid=75105638&vname=denotallissues&jd=a0h2b7r3y6&split=0

The Navajo Nation has officially requested the appointment of a federal disaster recovery coordinator from the Federal Emergency Management Agency to assist the tribe as it recovers from the Animas River spill.

“An FDRC could assist the Nation to effectively assess the short- and long-term impact of the disaster, determine priorities, and activate a recovery support strategy,” Russell Begaye, president of the nation, said in a Sept. 1 statement.

2 — Colorado Mine Spill Prompts Changes in Warning System, ABC News, 9/2/2015

<http://abcnews.go.com/US/wireStory/colorado-mine-spill-prompts-warning-system-33487401>

A massive wastewater spill from an old gold mine in Colorado has prompted state officials to expand the list of downstream users they will warn after such accidents. Last month, Colorado health officials notified only agencies inside the state after 3 million gallons of water tainted with heavy metals gushed out of the Gold King mine near Silverton and eventually reached the Animas, San Juan and Colorado rivers in New Mexico and Utah.

3 — Texas farmers brace for new clean water rule, Lubbock Avalanche-Journal, 9/2/2015

<http://lubbockonline.com/filed-online/2015-09-02/texas-farmers-brace-new-clean-water-rule#.VehfpvIVhBc>

In the 65 years that Tommy Calvert has grown hay and raised cattle in Denton County, he's never applied for a federal permit. But with a new national clean water rule in effect, he's not sure if it's something he needs to think about. After heavy rains, runoff from his fields sometimes reaches a creek near his 300-acre farm, and Calvert doesn't know if that tenuous connection to the drinking water supply might be enough to bring him under federal purview.

4 — Texas Railroad Commission Refutes Study Linking Quakes to Oil and Gas Industry, NPR, 9/2/15

<https://stateimpact.npr.org/texas/2015/09/02/texas-railroad-commission-refutes-study-linking-quakes-to-oil-and-gas-industry/>

An inquiry by the agency that regulates the oil and gas industry in Texas has found that oil and gas activity did not likely cause a swarm of earthquakes around the north Texas towns of Azle and Reno starting in 2013. The finding, however, flies in the face of a peer-reviewed scientific study of the quakes. The Texas Railroad Commission is the strangely named agency that regulates the state's oil and gas activity.

5 — Documentary 'Gasland' Pivotal to Anti-Fracking Movement: Study, NY Times, 9/2/2015

<http://www.nytimes.com/reuters/2015/09/02/arts/02reuters-usa-fracking-gasland.html?ref=reuters&r=0>

Dozens of clashing studies have examined whether fracking contaminates water. The U.S. Environmental Protection Agency this year concluded a five-year study that said fracking does not pose widespread risk to groundwater but pointed out some cases of pollution. Worries about water contamination and earthquakes led New York to pass a state-wide ban on fracking this year and several municipalities in other states like Pennsylvania, Ohio, West Virginia, and Texas to seek to impose local curbs.

6 — Study explores possibility of 1-in-10,000-year storms, newspaper reports, Times Picayune, 9/2/2015

http://www.nola.com/environment/index.ssf/2015/09/study_explores_possibility_of.html#incart_most_shared-environment

A new study that explores the possibility of a 1-in-10,000-year storm – a storm much worse than anything in recent memory – suggests a strong Category 3 hurricane could cause a nearly 37-foot storm surge in Tampa, Fla. The Washington Post interviewed one of the authors of the study, which appeared in Nature Climate Change. The authors, Ning Lin of Princeton and Kerry Emanuel of MIT, call the possible storms "gray swans."

7 — Well Explosion Could Put Pressure on Texas Regulators, Texas Tribune, 9/2/2015

<http://www.texastribune.org/2015/09/02/well-explosion-could-put-pressure-texas-regulators/>

While filling a cattle trough 15 months ago, Ashley Murray noticed something odd occurring in the shack housing her family's water pump. High-pressure water was spraying everywhere. She switched off the pump, went into the house and asked her husband to take a look. So out walked Cody Murray with his father Jim.

8 — More than 3 trillion trees grow on Earth, study finds, Times Picayune, 9/2/2015

http://www.nola.com/environment/index.ssf/2015/09/earth_tree_count_3_trillion.html#incart_river

More than 3 trillion trees now grow on Earth, seven times more than scientists previously thought. But it's also trillions fewer than there used to be, a new study concludes. A United Nations-affiliated youth group had a goal of planting one billion trees and Yale forestry researcher Thomas Crowther was asked if planting that many trees would do anything to help combat human-made climate change. Trees capture and store heat-trapping carbon dioxide.

9 — Texas regulator sees no evil as it starts mandated review, Greenwire, 9/2/2015

<http://www.eenews.net/greenwire/2015/09/02/stories/1060024169>

Texas' top oil and gas regulator is arguing for the status quo as it faces its third round of legislative reauthorization in four years. The state Railroad Commission says it should be left intact and recommends no changes in its major programs in its initial report to the state Sunset Advisory Commission.

10 — Tentative deal made for Ascension Parish to buy Peoples Water system in Donaldsonville, Advocate, 9/2/2015

<http://theadvocate.com/news/ascension/13300670-123/tentative-deal-made-for-ascension>

Ascension Parish government has reached an agreement in principle with Peoples Water Service Co. to buy its water operations in Donaldsonville for \$5.9 million. If the deal goes through, the parish plans to inject another \$5 million in upgrades to the water system, parish officials said.

11 — Okla. university cleans up radioactive spill, Greenwire, 9/2/2015

<http://www.eenews.net/greenwire/2015/09/02/stories/1060024186>

The University of Tulsa is cleaning up what officials say is a minor spill of a radioactive chemical. School officials said yesterday that 21 people who may have been exposed to cesium-137 are undergoing medical checks.

12 — Environmental groups are asking EPA to reject Texas' air pollution plan for Fort Worth, FW Weekly, 9/2/2015

<http://www.fweekly.com/2015/09/02/what-air-pollution/>

By 2018, the air quality in North Texas is projected to be among the worst in the country. That's according to a recent ozone study by the Environmental Protection Agency. And we won't be alone. Baltimore, Houston, and New York City are also expected to exceed EPA's safe ozone limit (75 parts per billion). North Texans should definitely be concerned

13 — 'Greener: Texas should control its own energy policy, Houston Chron, 9/2/2015

<http://www.houstonchronicle.com/opinion/outlook/article/Greener-Texas-should-control-its-own-energy-6481393.php>

No one likes the summer in Texas. Maybe the only thing we like less is how expensive it is to keep the air conditioning on. Unfortunately for us, the Obama administration just guaranteed that it's going to get even more expensive in the years to come.

14 — Group Says Regulators Too Close To Utilities, KUNM, 9/3/2015

<http://kunm.org/post/group-says-regulators-too-close-utilities-coalition-unveil-early-education-plan#stream/0>

An environmental group says members of a powerful New Mexico regulatory body are too "chummy" with utility executives and should not be making any decisions about the fate of a coal-fired power plant that serves customers around the Southwest. Santa Fe-based New Energy Economy filed a motion late Wednesday with the Public Regulation Commission, seeking the recusal of four of the panel's five members.

15 — Flaring still standard practice as regulators aim to reduce emissions, 9/2/2015

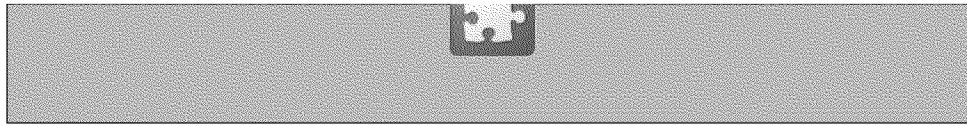
http://www.daily-times.com/energymagazine/ci_28742524/flaring-still-standard-practice-regulators-aim-reduce-emissions

Oil and gas companies continue to flare gas, while some point to a loss of potential profits and concerns about air quality for people who live in areas where there is industry activity. This, at a time, when energy regulations from the federal government are increasing.

16 Oklahoma Ranchers Affected By New Federal Clean Water Act Rules, News OK, 9/2/2015

<http://www.newson6.com/story/29948132/oklahoma-ranchers-affected-by-new-federal-clean-water-act-rules>

Oklahoma farmers, ranchers and small business owners say the federal government is overstepping its boundaries. New rules issued by the Environmental Protection Agency are aimed at keeping drinking water clean, but those who depend on the land to make a living said it will hurt their business.



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Oklahoma Ranchers Affected By New Federal Clean Water Act Rules

Posted: Sep 02, 2015 10:05 PM CDT Updated: Sep 02, 2015 10:05 PM CDT

MELISSA HAWKES, NEWS ON 6 [EMAIL](#)



RAMONA, Oklahoma - Oklahoma farmers, ranchers and small business owners say the federal government is overstepping its boundaries.

New rules issued by the Environmental Protection Agency are aimed at keeping drinking water clean, but those who depend on the land to make a living said it will hurt their business.

One rancher is worried about how the new regulations will impact his livelihood.

Up until now, it has been relatively easy for ranchers to make changes to bodies of water on their land, like, for instance, a pond.

The state oversaw the program until a few days ago, but now the federal government has full control, which ranchers say is scary.

Taking care of hundreds of calves on a ranch near Ramona is how Jess Kane makes a living for his family, but ranching as he knows it is drastically changing.

"I do this because I love the land, I love being out here. The idea we would do anything to harm Oklahoma waterways is just crazy," he said.

New rules by the EPA clarify the scope of "waters of the United States" that are protected under the Clean Water Act.

The EPA says it'll protect 2 million miles of streams and 20 million acres of wetlands, which will safeguard drinking water for millions, but much of that water falls on the land of ranchers, like Kane.

"This place right here in the river bottom like this would be right in the cross hairs of the water of the United States redefinition," he said.

His ranch backs up to the Caney River, and since it's in a floodplain, he won't be able to do much to his land without the federal government's approval.

"It's scary, darn scary," he said. "Should be rightfully regulated by the states, federal government has no purpose here."

Kane says it places an excessive burden on him and many others.

As a fifth generation rancher, he thinks his family has done a fine job without the government's help.

"We can effectively manage this resource and some bureaucrats out of Washington decide they can unilaterally redefine the law to where they can tell us what to do," Kane said.

A court ruling has blocked the measure in 13 states, but not in Oklahoma.

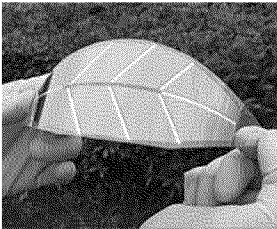
Oklahoma's state attorney general is suing the EPA over the rules in a separate lawsuit, but

that hasn't stopped the regulations from going into effect.

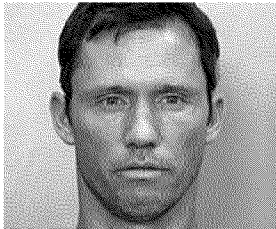
Again, the EPA says the new regulations are meant to keep our water supply safe and clean.

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Flaring still standard practice as regulators aim to reduce emissions

By James Fenton The Daily Times

Updated: 09/02/2015 06:11:24 PM MDT

Daily-
Times.com

Flaring still standard practice as regulators aim to reduce emissions

- Sep 2:
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FARMINGTON — Oil and gas companies continue to flare gas, while some point to a loss of potential profits and concerns about air quality for people who live in areas where there is industry activity.

This, at a time, when energy regulations from the federal government are increasing.

On Aug. 18 in an effort to address the problem of climate change, the Obama administration proposed cutting methane emissions from all U.S. oil and gas production by nearly half over the next 10 years.

The effort seeks to reduce methane from oil and gas drilling by 40 to 45 percent by 2025 compared to 2012 levels.

Natural gas is 90 percent methane, which is a climate-warming pollutant 80 times more potent than carbon dioxide over a 20-year time period, although methane is not as persistent. New Mexico is the second leading producer of natural gas in the U.S.

A proposed federal rule would cut emissions from new and modified oil and natural gas wells, which includes new drilling standards designed to reduce leakage from wells on public lands.

Steve Henke, president of the New Mexico Oil and Gas Association, said in an email that the state's oil and gas producers have a vested interest in minimizing any loss of natural gas by leaks or flaring.

"Over the past several years, the oil and gas industry has made great progress in minimizing avoidable losses of natural gas," Henke said. "In addition, producers are working hard to further minimize avoidable losses of natural gas for both environmental and economic reasons."

ConocoPhillips is New Mexico's largest natural gas producer, responsible for a third of all the natural gas that comes from the state.

The company has installed the latest pollution controls at well sites as a tool to reduce emissions,

according to Jim Lowry, a ConocoPhillips spokesman.

"Our operations in (the) San Juan (Basin) are expansive. We hold 1.3 million net acres of oil and gas leases in San Juan and have more than 10,000 producing wells, but our (carbon dioxide equivalent) emissions in San Juan account for less than 0.2 percent of the 3 billion tons emitted by entities that report their emissions to the (Environmental Protection Agency)," Lowry said.

ConocoPhillips is currently replacing all "high-bleed" - sizable releases of natural gas - pneumatic devices at all its existing well sites across the company's existing operations, he said.

Pneumatic devices automatically control pressure, gas flow and liquid levels, and operate valves. Replacing high-bleed devices with low- or no-bleed parts or retrofitting them with air-based pneumatics, can reduce methane released into the atmosphere.

WPX Energy says its infrastructure investments are limiting the amount of flaring the company does.

In the last few years, the Tulsa-based company, which has an office in Aztec, laid 95 miles of pipe in the San Juan Basin at a cost of \$18 million.

By the end of 2015, the company plans to complete an additional 92 miles of "gathering" pipelines to move natural gas, water and oil that it captures to process and then sell.

The infrastructure investments help reduce flaring and increase, which means they can more of the produced gas, according to Ken McQueen, WPX's San Juan Basin director.

The company builds pipelines in advance of drilling to expedite the delivery of oil and gas for processing and sale. The infrastructure also allows for greater recycling of produced water at well sites, McQueen has said. Forty-five percent of the company's total oil production is carried by pipeline, a new standard for efficiency that makes drilling profitable and increases safety by reducing the need for flaring, he said.

WPX spokeswoman Susan Alvillar said the flaring is a trade off for using less water.

Flaring of wells occurs after completion and is necessary and happens for two reasons, Alvillar said. First, flaring is used to reduce nitrogen - which cuts the amount of water needed during drilling - from the natural gas that is produced.

The nitrogen is used during hydraulic fracturing to help "energize" the formation for greater flow of oil and gas, she said, but it must be reduced before the product can be sold to companies such as Enterprise and Williams.

"In order for the concentration of nitrogen to be acceptable for the pipeline companies, we have to flare off the gas until the percentage of nitrogen is acceptable," Alvillar said. "We have been able to work with the pipeline companies to increase the amount of nitrogen (that is) acceptable."

The other reason to flare, Alvillar said, is when an oil well - especially early wells the company

drilled - lacks a natural gas pipeline to carry the gas.

She said the company's increase in pipelines, separators and storage tanks will reduce the need to flare, but the costs of the infrastructure make the process toward reduced flaring slow.

"Because we have the infrastructure in place, our average flaring time is eight to 10 days, but it has been as low as two days," she said. "(The Bureau of Land Management) allows flaring up to 30 days. After that you need a waiver. We do not pay royalties on gas flared, but we have to report the quantity. From time to time, we flare the gas during certain maintenance activities. We have to let BLM know when we plan to flare."

While those improvements mark some progress toward curbing atmospheric haze, Sister Joan Brown, executive director of Albuquerque-based New Mexico Interfaith Power and Light, said methane emissions in the state, captured last fall in NASA imagery that showed a "hot spot" of methane over the Four Corners area, is still a problem that requires federal oversight.

"As people of faith, we cannot remain silent while unnecessary pollution spills into our air, so I am encouraged that the EPA is moving to reduce this insidious problem that is so dangerous for our environment, our people and our climate," Brown said in a statement. "Following in the footsteps of Pope Francis, who calls us to address pollution and climate change, we are working to keep New Mexico enchanting by embracing methane regulations for the benefit of our brothers and sisters here and around the world."

James Fenton is the business editor of The Daily Times. He can be reached at 505-564-4621 and jfenton@daily-times.com. Follow him @fentondt on Twitter.



Group Says Regulators Too Close To Utilities, Coalition To Unveil Early Education Plan

By [KUNM NEWS \(/PEOPLE/KUNM-NEWS\)](#) · 1 MINUTE AGO

Twitter (<http://twitter.com/intent/tweet?url=http%3A%2F%2Fwww.tinyurl.com%2Fpzkrwvo&text=Group%20Says%20Regulators%20Too%2>)



(/sites/kunm/files/styles/x_large/public/201509/pablohart_via_Compfight.jpg)

Advocates will propose a new plan to expand early childhood education.

PABLO HART VIA COMPFIGHT

NM Regulators Accused Of 'Chummy' Relations With Utility – *Associated Press*

An environmental group says members of a powerful New Mexico regulatory body are too "chummy" with utility executives and should not be making any decisions about the fate of a coal-fired power plant that serves customers around the Southwest.

Santa Fe-based New Energy Economy filed a motion late Wednesday with the Public Regulation Commission, seeking the recusal of four of the panel's five members.

The motion hinges on numerous emails and phone calls that make reference to private meetings, dinners, coffee dates and invitations to conferences and sporting events.

A commission spokesman says the motion was being reviewed by legal counsel.

The commission is considering a plan by PNM that calls for shuttering part of the San Juan Generating Station and replacing the lost capacity with a mix of coal, nuclear, natural gas and renewable energy.

AFT National President To Unveil New Mexico Preschool Plan -
Russell Contreras, Associated Press

The American Federation of Teachers is scheduled to unveil a plan aimed at expanding early childhood education in New Mexico amid a stalemate over funding.

AFT national president Randi Weingarten is slated today to join Democratic Senate Majority Leader Michael Sanchez at a Los Ranchos De Albuquerque preschool to discuss efforts to put pressure on state lawmakers and Gov. Susana Martinez to expand the program.

Under the proposal sponsored by a coalition of groups, a revamped state early education program would include a substitute educator pool, a paid sick leave trust fund and "a scientifically-based" professional development program.

The proposal comes after proponents of expanding early childhood education have clashed with some state lawmakers over tapping into New Mexico's permanent land fund to finance an expansion.

House Committee To Investigate Charges Against Sec Of State – *Associated Press*

The speaker of New Mexico's House of Representatives says he's created a special committee to investigate charges against Secretary of State Dianna Duran.

Don Tripp says he believes it's the "appropriate and responsible next step" for the House to begin the process of determining whether the charges have merit and rise to the level of impeachment.

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OUTLOOK

Greener: Texas should control its own energy policy

By Jerome Greener | September 2, 2015

1

No one likes the summer in Texas. Maybe the only thing we like less is how expensive it is to keep the air conditioning on.

Unfortunately for us, the Obama administration just guaranteed that it's going to get even more expensive in the years to come.

Last month, the Environmental Protection Agency released the final version of its new carbon regulation,

OPINION

Our Radical Islamic BFF, Saudi Arabia



Editorial: Run, Joe, run

Friedman: Bonfire of the assets, with Trump lighting matches

Friedman: The world's hot spot

A change in scenery can mean so much

officially known as the "Clean Power Plan." It's a regulation that's supposed to cut Texas' carbon dioxide emissions by 33.5 percent. The president touted it as a moral necessity in the fight for a cleaner environment.

But that's not what we're going to get. According to the EPA's own climate models, the regulation will only result in a less-than-tiny 0.018 degree

decrease in world temperatures. As for rising sea levels, the rule will only avert a hundredth of an inch - that's 0.01 inches, or the thickness of three sheets of paper, if the visual aid helps.

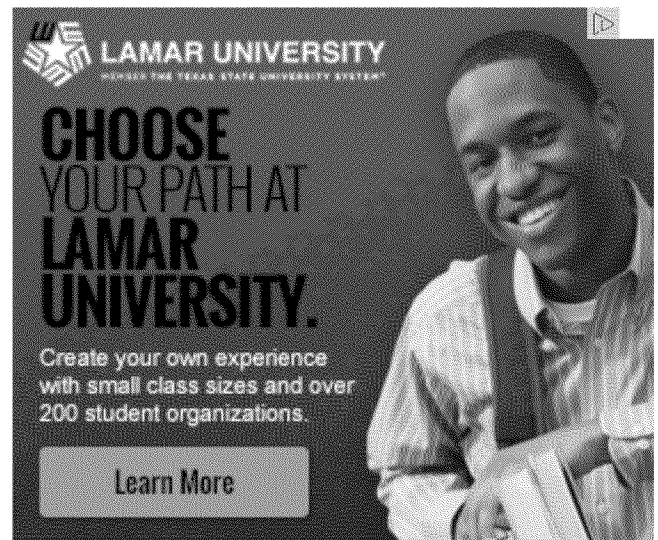
In other words, the regulation is an environmental dud. It'll have essentially no effect on the air we breathe and the water we drink.

But the same can't be said of its effects on our economy. The president's carbon regulation will effectively force Texas to redesign its electricity grid-a massive and costly undertaking. As a result, it may turn the lights - and air conditioning - off for many Texans, or at least make them drastically more expensive.

Don't take my word for it; take President Obama's. In 2008, he promised his energy policies would make electricity prices "necessarily skyrocket." The evidence proves he meant it. A report last year by NERA Economic Consulting found that Texas families can expect annual electricity increases of 10 percent a year for well over a decade.

Even if that isn't plainly unaffordable at first, it will become so with each passing year, and it will affect low- and middle-income Texans the most. They'll have to make painful tradeoffs in their budget - something that already happens too often.

Texas businesses won't be any better off. Another study found our state's job creators can expect electricity prices to increase by 112 percent over an eight-year period. In the real



world, such increases in overhead costs put a squeeze on job creation and wage growth. That explains why the Heritage Foundation estimates Texas could lose more than 42,000 good-paying manufacturing jobs under this regulation. And that's just in the next decade.

Higher costs and fewer jobs are the last thing Texas needs. Our economy is booming. Now Washington wants to take us in the wrong direction.

What makes this even more baffling is that it's plainly illegal. You know you're on shaky legal footing when Harvard Law's Laurence Tribe says neither the Constitution nor federal law supports this federal takeover of state electricity grids. That's coming from a liberal lawyer who personally trained President Obama.

The only good news is that the state government is already doing everything it can to keep Texas safe from this gross case of federal overreach. Gov. Greg Abbott has already chosen not to submit a state implementation plan, which the EPA wants every state to do. And Attorney General Ken Paxton has joined over a dozen other states in a lawsuit against the federal government.

The Obama administration will surely do all it can to try and force Texas to give in - including threatening to design an even worse plan if we don't submit our own. Yet our elected officials should stand strong in the face of such blackmail. The last thing we need is another Washington regulation that increases costs on families and prevents businesses from creating jobs and increasing wages, all while doing nothing to improve environment.

That may make sense in Washington, but in Texas we know better.

Greener is director of Americans for Prosperity-Texas.

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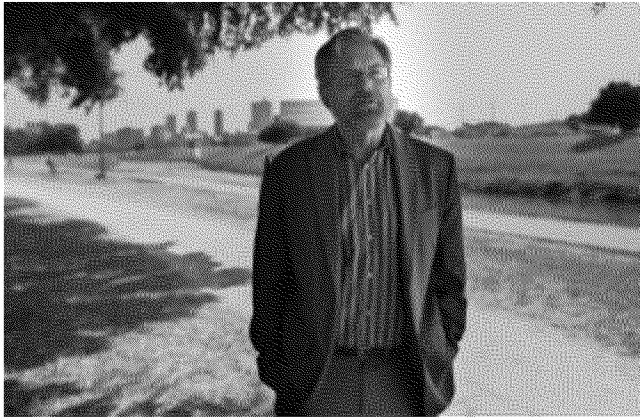
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What Air Pollution?

Environmental groups are asking EPA to reject Texas' air pollution plan for Fort Worth.

Posted September 2, 2015 by Edward Brown @ejb0017 in News

3



Jim Schermbeck, director of the air pollution awareness group Downwinders at Risk.

By 2018, the air quality in North Texas is projected to be among the worst in the country.

That's according to a recent ozone study by the Environmental Protection Agency. And we won't be alone. Baltimore, Houston, and New York City are also expected to exceed EPA's safe ozone limit (75 parts per billion).

North Texans should definitely be concerned. More ozone above a city means more smog, and more smog means more health concerns, including heart and lung problems, bronchitis, and asthma.

The air got so bad in the 10-county area of North Texas in 2012 that the EPA forced the Texas Commission on Environmental Quality to come up with an ozone-reduction plan by July 2015. TCEQ met the submission deadline, but not everyone is happy with the proposal.

The plan, according to Jim Schermbeck, director of the air pollution awareness group Downwinders at Risk, relies heavily on hypothetical improvements to gasoline quality and does little to address pollution from industrial sources.

"This is an assembly-line process that's gone on since the 1990s" in Texas, he said.

In the past, he said, the state played by the EPA's rules, however reluctantly. Under Gov. Rick Perry, though, Schermbeck said, TCEQ became less transparent and much less willing to comply with EPA regulations.

Part of the problem, he added, is that TCEQ does its own research, or air modeling, meaning that the agency can adjust its findings to suit its needs — most states outsource their air modeling to assumedly unbiased independent contractors.

In an e-mail, TCEQ spokesperson Linda Wheeler confirmed Schermbeck's statement. Her agency has done its own air modeling since 1992 with two exceptions, including a 1997 air quality plan by Environ Corp.

The last time TCEQ submitted an air-quality plan for North Texas was four years ago. The plan allowed for a rise in smog-causing ozone emissions. Schermbeck was shocked the EPA approved the plan, but he hopes things will be different this time around.

The EPA has 18 months to either accept Texas' ozone-reduction plan or reject it. If the EPA rejects it, they have the option of imposing their own plan within two years of the rejection. During that time, the EPA can mandate reductions on new emission sources in North Texas and withhold non-safety-related federal highway funds.

"We're asking the EPA to reject the plan and start over with a plan that actually cleans our air," said John MacFarlane, conservation chairperson of the Sierra Club of Greater Fort Worth.

Texas, he continued, "has not addressed tracking all the emissions from gas drilling and compressors, pipelines, and all the methane that escapes from them or considered the coal fire plants in East Texas."

TCEQ, Wheeler said, already uses 30 regulations to limit the amount of nitrogen oxide (a gas that contributes greatly to ozone depletion) released at "cement plants, electric utilities, and both natural gas production and transmission" plants.

Schermbeck and MacFarlane are asking concerned residents to write or e-mail EPA directors Ron Curry and Gina McCarthy and urge them to reject TCEQ's plan. While it would be unusual for the EPA to force a state to comply, it wouldn't be unprecedented. In 1990, Wisconsin filed suit against the EPA to force neighboring Chicago to adhere to federal ozone standards, and in 2012, the federal agency oversaw a plan to lower emissions in Nevada.

The EPA could not be reached for comment, but in a recent public statement, the federal agency wrote, "It is difficult to see how [North Texas] would reach attainment in 2018" based on the state's current plan. "We believe it is likely that additional reductions will be needed" to meet EPA requirements.

Should the EPA approve the plan, Schermbeck said his group would consider filing a lawsuit to force Texas to lower emissions in North Texas, but he hopes it doesn't come to that. His group is releasing a comprehensive report that will systematically outline the shortcomings in Texas' plan this fall. He is also putting together a rally, Get Tough on Texas, outside of the EPA's regional headquarters in Dallas in late November.

"This has now reached the level of The Theater of the Absurd," Schermbeck said. "The good thing is that the state's plan is insufficient, and the EPA is finally calling B.S. on it. There's a Clean Air Act. Texas should have to abide by that act."

THE LEADER IN ENERGY & ENVIRONMENTAL POLICY NEWS

HAZARDOUS WASTE:**Okla. university cleans up radioactive spill**

Published: Wednesday, September 2, 2015

The University of Tulsa is cleaning up what officials say is a minor spill of a radioactive chemical.

School officials said yesterday that 21 people who may have been exposed to cesium-137 are undergoing medical checks.

The spill of cesium-137 is believed to have occurred last fall, but the company thought to be responsible, Tracerco, a subsidiary of British chemical company Johnson Matthey, did not notify the university until last week, the school said.

University President Steadman Upham said the company spilled a small quantity of the chemical at a restricted building that contains research equipment. The Oklahoma Department of Environmental Quality is evaluating the area, officials said.

School officials say they do not know the radiation levels caused by the spill, which is thought to be the size of a teaspoon (Heide Brandes, [Reuters](#), Sept. 1). -- SP

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Tentative deal made for Ascension Parish to buy Peoples Water system in Donaldsonville

Ascension plans to buy Donaldsonville system

by David J. Mitchell

dmitchell@theadvocate.com

GONZALES — Ascension Parish government has reached an agreement in principle with Peoples Water Service Co. to buy its water operations in Donaldsonville for \$5.9 million.

If the deal goes through, the parish plans to inject another \$5 million in upgrades to the water system, parish officials said.

After months of negotiations, Ascension Parish President Tommy Martinez said Friday, company and parish officials were able to agree on a number between the parish's earlier offer of \$5 million and Peoples Water's most recent price of \$7.5 million.

Many steps need to happen for the deal to go through, including state Public Service Commission review of the sale and Parish Council approval of it.

But the proposed purchase would allow the parish to combine the 3,100-customer water system serving Donaldsonville with a parish-owned system of 700 customers that exists on the city's periphery and extends far afield to the upriver community of Modeste.

The parish system, known as Ascension Consolidated Utilities District No. 1, has not been able to turn a profit, and recently, tests revealed that the brain-eating amoeba *Naegleria fowleri* was in the water.

After discovery of the amoeba July 28, the state Department of Health and Hospitals ordered the district to conduct a chlorine burn, in which chlorine levels are increased and maintained at that level for a 60-day period to kill the amoeba. State officials said the system hit the required chlorine levels Aug. 17 to start the 60-day clock on the burn.

The Peoples Water purchase would give the parish a centrally located, 3 million-

gallon-per-day water plant and disinfection system on the Mississippi River with excess capacity and would allow the parish to stop buying and piping in water from neighboring parishes.

The deal's financing also is projected to turn an annual profit for the now money-losing ACUD No. 1 system but would come with a 33 percent rate increase for current Peoples Water customers in Donaldsonville to help finance the Peoples Water system upgrades and for paying off the debt owed on ACUD, parish officials said.

"I think it's a great deal for everyone concerned here, and I think it'll work and it's a step in the right direction," Martinez told the Parish Council Utilities Committee Thursday night when he first announced the agreement.

As the purchase plan is envisioned, the parish would use \$5.9 million in cash to buy the system and then would borrow \$9.1 million, either with a low-interest loan through DHH or revenue bonds. The loan would provide \$5 million in upgrades for the Peoples Water system, while the remaining \$4.1 million would pay off the remaining debt for the ACUD No. 1 system, Martinez said.

Donaldsonville officials have aired their concerns about the parish's proposed purchase and the possible rate hike, which they see as their city bailing out the debt-laden ACUD system. Those worries have spurred anew long-standing interest in Donaldsonville to buy Peoples Water, but Mayor Leroy Sullivan has acknowledged the city also would have to raise rates to finance a purchase of Peoples Water.

Martinez pointed out, though, that while ACUD No. 1 customers would not see the water rate increase as Donaldsonville customers would, existing ACUD customers would continue to pay a 10-mill property tax adopted in 2006 to pay for the debt taken out for ACUD's infrastructure. With all that taken together, he argued, overall water bills for city and existing ACUD No. 1 customers would end up about the same.

When and if the entire financing effort takes place, Martinez said, the ACUD system is projected to net \$525,000 per year in profit. The system now must rely on the general fund and other parish sources because it runs at an annual loss with its existing revenue sources.

The council previously had authorized Martinez to offer up to \$5 million to buy Peoples Water, but, at his request Thursday, the committee recommended the new offer price, plus other terms requested by Peoples Water.

The parish also must keep the 15 Peoples Water employees.

Martinez said Friday that the council could vote on the new offer as soon as Thursday evening in Donaldsonville.

Sherlock “Shockey” Gillet Jr., president of Peoples Water, confirmed Friday that the two sides had reached an agreement, but he was reluctant to offer many details due to confidentiality agreements his company has with the parish and Donaldsonville. He did say a lot of details must be worked out with the parish.

“It seems that it’s going, as both partners are interested in it, and we’ll just see if we get across the finish line,” Gillet said.

He declined to comment on the status of Donaldsonville’s purchase bid.

Peoples Water, which is based in Maryland, runs water systems in Bastrop and Pensacola, Florida, in addition to Donaldsonville. The company has been in the city since 1941.

Even if Martinez’s deal gains council backing Thursday, he said the council would have to come back and adopt an ordinance — a process that happens over two meetings with extensive public advertising in advance. He said the deal would not be wrapped up until early December, just before his term as parish president ends.

Follow David J. Mitchell on Twitter, [@NewsieDave](#).

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THE LEADER IN ENERGY & ENVIRONMENTAL POLICY NEWS

OIL AND GAS:

Texas regulator sees no evil as it starts mandated review

Mike Lee, E&E reporter

Published: Wednesday, September 2, 2015

Texas' top oil and gas regulator is arguing for the status quo as it faces its third round of legislative reauthorization in four years.

The state Railroad Commission says it should be left intact and recommends no changes in its major programs in its initial report to the state Sunset Advisory Commission.

"Elimination of the agency would leave the state without any capable oversight of the energy industries or enforcement of statutes governing the industries," the commission staff states.

It's the latest twist in the on-again, off-again effort to reform the Railroad Commission, which is Texas' oldest regulatory agency.

The three-member Railroad Commission hasn't overseen railroads since 2005. Instead, it writes and enforces the rules for the oil and gas and pipeline industries. Because of Texas' immense resources, the commission is in charge of about one-third of U.S. oil production, one-fifth of U.S. natural gas production and one-sixth of the pipeline mileage in the country.

The three commissioners are elected statewide, and receive the bulk of their campaign funds from the companies they regulate, which has led to criticism that the commission is too cozy with the energy industry.

Most state agencies in Texas have to go through a reauthorization every decade or so to make sure they haven't become obsolete. Over the years, the state Legislature's Sunset Advisory Commission has used the process to merge or eliminate a number of agencies.

Since 2011, the sunset commission has recommended fundamental overhauls of the Railroad Commission, including changing its name to reflect what it does and limiting the campaign contributions the commissioners receive.

The state Legislature, though, has avoided acting on those recommendations. It voted in 2013 to reauthorize the Railroad Commission in its current form and delay the full sunset review until 2017 (*EnergyWire*, May 29, 2013).

The commission approved the report Aug. 25 but declined to make it public until yesterday, despite formal requests from media outlets. A spokesman said the Railroad Commission wanted to give the final copy to the sunset commission before turning it over to the media.


The report released this week is the first step in a series of evaluations and hearings that are supposed to continue through 2016.

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More than 3 trillion trees grow on Earth, study finds

Trillion Trees

In this July 25, 2014, file photo, vegetation grows among trees burned by the Rim Fire, near Groveland, Calif. More than 3 trillion trees now grow on Earth, more than seven times greater than scientists previously thought. But it's also trillions fewer than there used to be, a new study concludes. (AP Photo/Rich Pedroncelli, File) *(Rich Pedroncelli)*

The Associated Press By The Associated Press
on September 02, 2015 at 2:42 PM

WASHINGTON -- More than 3 trillion trees now grow on Earth, seven times more than scientists previously thought. But it's also trillions fewer than there used to be, a new study concludes.

A United Nations-affiliated youth group had a goal of planting one billion trees and Yale forestry researcher Thomas Crowther was asked if planting that many trees would do anything to help combat human-made climate change. Trees capture and store heat-trapping carbon dioxide.

Crowther said first he had to figure out how many trees are on Earth and that number was far more than anyone expected: 3.04 trillion trees, according to a study published Wednesday in the journal Nature.

The previous estimate was 400 billion trees and that rough count was based on satellite images peering down from space. Crowther and colleagues used 429,775 ground-based measurements along with satellite measurements and computer models to get a more accurate figure.

"These things really dominate our planet," Crowther said. "They are the most prominent organisms on our planet and there are 3 trillion of them."

But Earth used to be covered with far more trees. Using computer models, Crowther and colleagues estimated that before human civilization Earth had about 5.6 trillion trees. So the number of trees on Earth has been chopped nearly in half.

Crowther mostly blames people. His study found that 15 billion trees are cut down each year by people, with another 5 billion trees replanted. That's a net loss of 10 billion trees a year. At that rate, all of Earth's trees will be gone in about 300 years.

"Humans are diminishing that huge population on such a global scale," Crowther said.

Nearly 1.4 trillion of Earth's trees are in tropical and subtropical forests, but that's also where the rate of

forest loss is the highest, the study found.

So if there are so many trees on the planet, the planting of a billion trees wouldn't do too much to fight climate change on its own, Crowther conceded. But he said that didn't stop the tree planters group; they just upped their goal. On its website, Plant for the Planet says the objective is now 18 billion

Now that's over many decades, and it might be hard to find space, but it can be done, Crowther said.

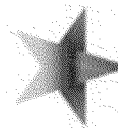
Outside scientists such as Norm Christensen of Duke University said the way the study was conducted made sense and is well executed. But he wonders how useful it is to know the number of trees. Former U.S. Forest Service chief Mike Dombeck said the same thing, adding the issue is more than a number but the big picture of what trees do to help Earth and local ecosystems.

Crowther said he and his colleagues all wondered the same thing, but the detailed maps of forest density can help conservation efforts. For example, if a jaguar needs a certain number of trees to survive, this can help in rebuilding the right habitat for the large cat, Crowther said.

Also, it spurs people to realize how important it is to take care of and replant forests, Crowther said.

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Well Explosion Could Put Pressure on Texas Regulators

by Jim Malewitz | Sept. 2, 2015 | 20 Comments

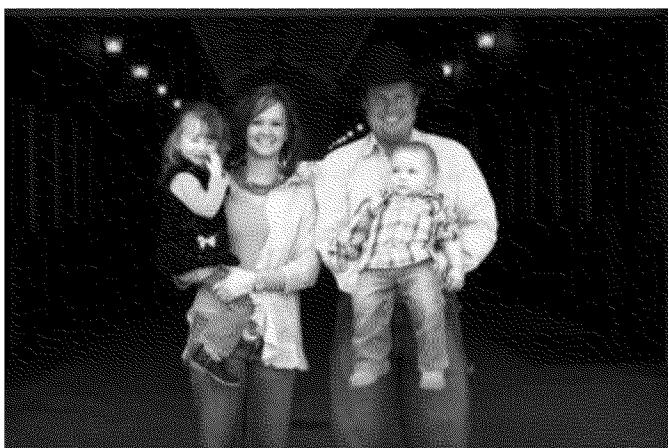
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Photo by Murray Family

Ashley and Cody Murray, ranchers in Palo Pinto County, pose with their two children. They allege nearby gas drilling caused methane to leak into their water well before it exploded, severely burning the couple, their four-year-old daughter and Cody's father. Their legal case could put pressure on Texas regulators.

REFERENCE MATERIAL

Murray Complaint v. EOG Resources, Fairway Resources

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Railroad Commission Investigation — Murray Well

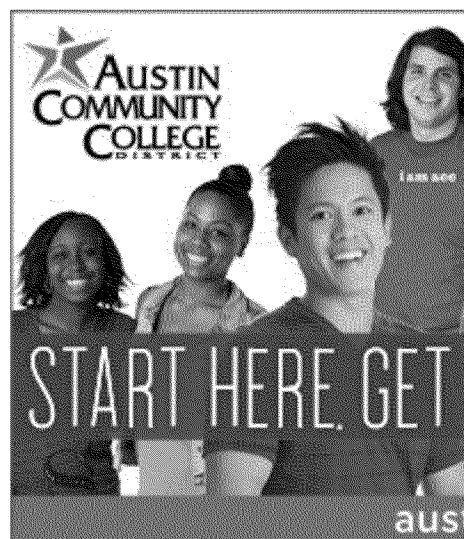
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husband to take a look. So out walked Cody Murray with his father Jim.

While filling a cattle trough 15 months ago, Ashley Murray noticed something odd occurring in the shack housing her family's water pump. High-pressure water was spraying everywhere. She switched off the pump, went into the house and asked her

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Ashley stood holding the couple's four-year-old daughter just outside the wood-and-stone pump house. As Jim Murray flipped on the pump, it let out a "woosh." Cody, a former oilfield worker, knew the sound signaled danger. He threw his dad backwards — just before a fireball shot from the wellhead and transformed the Murrays' 160-acre Palo Pinto County ranch into an emergency scene.

Somehow, everyone survived the explosion, detailed in legal filings. But the flames severely burned each of the four.

Now, as the Murrays continue their recovery, the family wants to hold someone accountable for the blast, sparked by a buildup of methane gas. They say blame lies with a pair of companies that drilled and operate two gas wells roughly 1,000 feet away from their water well.

Those gas wells are among thousands that dot the Barnett Shale, which stretches some 5,000 square miles beneath at least 25 North Texas counties.

THE UNIVERSITY OF TEXAS AT AUSTIN

The wells drilled and operated by Houston-based EOG Resources and Fairway Resources, a partner of Goldman Sachs, "are the only possible sources of the contamination," the Murrays allege in a lawsuit filed last month.

(Family members were not immediately available for interviews.)

"I have scientific testing showing that Mother Nature did not put this gas in the Murrays' well," said Christopher Hamilton, the family's attorney, who called it "a landmark case in Texas."

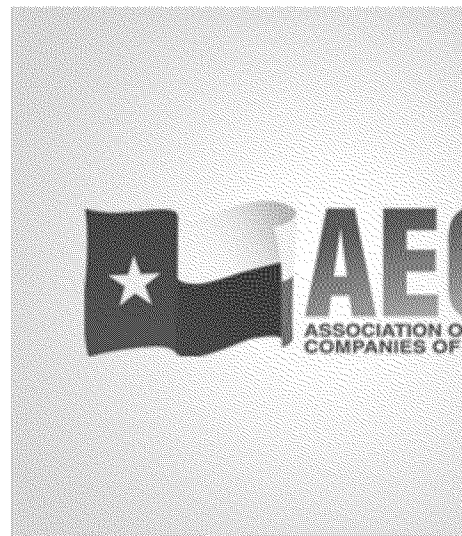
Through a spokeswoman, EOG Resources declined to comment on the litigation, citing company policy. Fairway Resources did not respond to messages left at its Southlake office. As of Tuesday, neither company had responded in court.

Scientifically proving the case, a difficult task, would put pressure on the state's oil and gas regulator — the Texas Railroad Commission — and could reboot an emotional debate about whether years of frenzied drilling in one of the country's largest gas fields has put groundwater at risk.

by John Reynolds | 5 hours 9 minutes ago

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by Eleanor Dearman and John Reynolds
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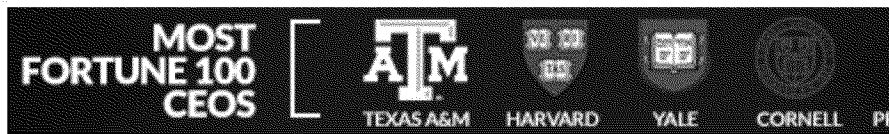
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The agency has quietly investigated the Murrays' case over the past year, its records show.

The agency — which straddles the line between industry champion and watchdog — has not openly linked groundwater contamination to drilling activities, and it frequently repeats a refrain that it has not implicated hydraulic fracturing, in particular — the revolutionary method of blasting apart rock to free up gas.

“To be clear, Commission records do not indicate a single documented water contamination case associated with the process of hydraulic fracturing in Texas,” Ramona Nye, a spokeswoman, said in an email.



Lasts spring, the agency effectively shut the door on a high-profile case dating back to 2010 — once reopened — concerning methane-tainted wells in Parker County. The last agency analysis said evidence was “insufficient” to determine whether the accused driller unlocked deep-resting Barnett gas, or if the methane naturally bubbled up from shallower depths.

A few months later, five universities published peer-reviewed research concluding that oil and gas activities (but not fracking itself) tainted some of the same water wells in Parker County. High levels of methane escaped poorly constructed natural gas wells and migrated into shallow aquifers, the *Proceedings of the National Academy of Science* paper said. Substandard cementing likely caused the problem, said the researchers, relying on a set of geochemical tracers different than what the Railroad Commission used.

The Parker County gases arrived in the aquifer without undergoing typical geologic changes, data showed, leading researchers to conclude that they came up through a pipe — likely part of a gas well — and didn’t interact with any water or rocks below the surface.

The commission panned that study and declined to reopen its investigation.

Hamilton, the lawyer for the Murrays, said his evidence points to cementing problems similar to what researchers at the five

universities identified, implicating the energy companies.

That analysis, he claims, comes from a team of highly recognized scientists who are working for free, save for travel costs.

“This is the first case I’ve ever had where none of my experts will accept compensation,” said Hamilton. “These guys won’t take any money because they’re totally in it for the science and they don’t want anyone to question their credibility.”

However, the attorney said he could not immediately reveal his data, or the names of his experts because of the discovery timeline in his lawsuit.

The family's complaint details the explosion's grizzly results, including several first and second degree burns for Cody, Jim and the child. With burns on his arms, upper back, neck forehead and nose, Cody spent a week in a hospital's intensive care and burn units. With his nerves damaged, the 38-year old cannot drive — because he can't grip a steering wheel — and cannot work, the document says.

The Murrays are seeking more than \$1 million in relief.

So far, the Railroad Commission has documented high methane levels in the Murray well, and others nearby. One family's well registered methane at more than five times the federal limit. But the data were “inconclusive with respect to specific migration pathways from shallower sources,” that analysis said.

Nye said the agency is looking at records for local oil and gas wells to make sure companies built them correctly.

After examining the Railroad Commission water well analysis, Hugh Daigle, an assistant professor in the University of Texas at Austin's department of petroleum and geosystems engineering, agreed that the data was inconclusive, and said it looked like the agency was on the right track in investigating the contamination.

“There’s a lot of different places that gas could be coming from,” he said. “They’re doing the right thing to try to figure this out.”

Meanwhile, water concerns extend beyond the Murray ranch.

Rebecca and Larry Norris, a couple living just west of the Murrays, said their water has been turning everything orange — the sinks, the tub — for the past few years, beginning around the time the drilling companies arrived.

They reported the problem to the Railroad Commission shortly after the explosion, but haven't heard back — "not a peep," Rebecca, 65, said. (Nye said the agency was looking into why it may not have responded.)

In her house sitting near six wells, Rebecca, said, "you wonder, just wonder" what's in the water.

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Study explores possibility of 1-in-10,000-year storms, newspaper reports

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A new study that explores the possibility of a 1-in-10,000-year storm – a storm much worse than anything in recent memory – suggests a strong Category 3 hurricane could cause a nearly 37-foot storm surge in Tampa, Fla. In this Sept. 11, 2008, file photo, Lloyd Dudoussat clears marsh grass from his property in the Snug Harbor subdivision near Slidell as storm surge from Hurricane Ike floods the area. (*NOLA.com* | *The Times-Picayune archive*)

Heather Nolan, *NOLA.com* | *The Times-Picayune* By Heather Nolan, *NOLA.com* | *The Times-Picayune*
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on September 02, 2015 at 6:38 PM, updated September 02, 2015 at 6:39 PM

A new study that explores the possibility of a 1-in-10,000-year storm – a storm much worse than anything in recent memory – suggests a strong Category 3 hurricane could cause a nearly 37-foot storm surge in Tampa, Fla.

The Washington Post interviewed one of the authors of the study, which appeared in *Nature Climate Change*. The authors, Ning Lin of Princeton and Kerry Emanuel of MIT, call the possible storms "gray swans."

The study looks at the possibility of "gray swan" storms in three cities – Tampa, Cairns, Australia and Dubai, United Arab Emirates. Emanuel told The Washington Post the purpose of the study is "to raise awareness of what a very low probability, very high impact hurricane might look like."

Read more about the study in The Washington Post.

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ARTS

Documentary 'Gasland' Pivotal to Anti-Fracking Movement: Study

By REUTERS SEPT. 2, 2015, 4:03 P.M. E.D.T.

BOSTON — An Oscar-nominated HBO documentary that showed American homeowners near hydraulic fracturing sites setting fire to their tap water may have been the main trigger for a surge in public opposition to the oil and gas production technique, according to a study to be published next month.

"Gasland," produced by filmmaker Josh Fox in 2010, sparked a rise in online searches, social media chatter, news coverage, and environmental activism surrounding fracking that may have led to a series of local attempts to ban the industry in the years that followed, according to the paper which will be published in the American Sociology Review's October edition.

Fracking involves injecting sand, water and chemicals underground to crack open rock formations holding natural gas and oil - a technique that has led to a boom in U.S. production and a slump in world energy prices.

Dozens of clashing studies have examined whether fracking contaminates water. The U.S. Environmental Protection Agency this year concluded a five-year study that said fracking does not pose widespread risk to groundwater but pointed out some cases of pollution.

Worries about water contamination and earthquakes led New York to pass a state-wide ban on fracking this year and several municipalities in other states like Pennsylvania, Ohio, West Virginia, and Texas to seek to

impose local curbs.

"Local screenings of 'Gasland' contributed to anti-fracking mobilizations, which, in turn, affected the passage of local fracking moratoria," according to the study, which was authored by University of Iowa associate professor Ion Bogdan Vasi.

Researchers said they analyzed internet searches, Twitter posts, mass media coverage and activist mobilizations that focused on fracking at various points following the release of "Gasland" on TV channel HBO in June 2010.

They found spikes in activity immediately following the release, the film's nomination for an Oscar Award in February 2011 and its various local screenings. The study said the documentary helped shift fracking "from a place of almost complete novelty" to "an established and contentious position."

The oil and gas industry has criticized the film as misleading, stating there have been cases of residents in the Marcellus shale region having flammable tap water long before the fracking boom began there due to naturally occurring methane in underground aquifers.

(Reporting by Richard Valdmanis; Editing by Cynthia Osterman)

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Energy and Environment Reporting for Texas

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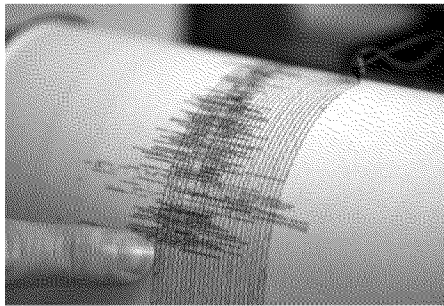
Texas Railroad Commission Refutes Study Linking Quakes to Oil and Gas Industry

SEPTEMBER 2, 2015 | 12:23 PM
BY MOSE BUCHELE

An inquiry by the agency that regulates the oil and gas industry in Texas has found that oil and gas activity did not likely cause a swarm of earthquakes around the north Texas towns of Azle and Reno starting in 2013. The finding, however, flies in the face of a peer-reviewed scientific study of the quakes.

The Texas Railroad Commission is the strangely named agency that regulates the state's oil and gas activity. The agency held a hearing in June looking at whether ExxonMobil subsidiary XTO Energy contributed to the earthquakes by pumping millions of gallons of drilling and fracking wastewater into the ground.

A peer-reviewed study out of Southern Methodist University had already found that that was "most likely" the cause, adding that industry data would be vital in widening the scope of future studies. But at the hearing, agency examiners weighed that study against the evidence put on the record. XTO was the only party that offered direct evidence, and examiners found in favor of an XTO well located near Azle and Reno.



OLIVER BERG DPA/LANDOV
A dozen smaller earthquakes have struck Dallas this week.

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"I feel appalled. It's a slap in the face to every citizen of Texas, every citizen in the United States," says Reno Mayor Lynda Stokes.

Reno was rattled by the string of earthquakes, and Stokes says she was not invited to the hearing. She says she thinks the Railroad Commission is not doing its job.

"It's on the side of industry," she says. "It's not there to regulate the industry, it's there to promote the industry. It's actually there for both, and that's kind of like the fox watching the henhouse."

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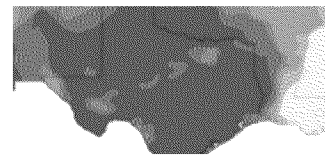
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Lynda Stokes is the mayor of Reno in Parker County, where dozens of medium-sized earthquakes have been recorded in an area that used to be quake-free.

The Railroad Commission has a staff seismologist, but he did not participate in the hearing.

In an email, a Southern Methodist University spokesperson wrote that the SMU seismology team stands by their peer-reviewed study.

Parties in the hearing have a couple weeks to object to the agency's findings, but the only parties were XTO and the Railroad Commission itself.

Texas Railroad Commission Refutes Study Linking Quakes to Oil and Gas Industry

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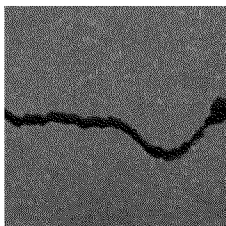
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The commission still needs to take final action on the case in a public meeting. Below, you can read the agency's full order.

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Texas farmers brace for new clean water rule

Posted: September 2, 2015 - 2:41pm

By Ally Mutnick

The Texas Tribune

In the 65 years that Tommy Calvert has grown hay and a federal permit. But with a new national clean water rule, he has a lot to think about. After heavy rains, runoff from his fields soaks into the ground. Calvert doesn't know if that tenuous connection to the creek is enough to bring him under federal purview.

Calvert's confusion reflects wider uncertainty as the U.S. Environmental Protection Agency's new Waters of the U.S. rule kicks in, extending the agency's regulatory power to smaller bodies of water, including some streams that only flow after heavy precipitation.

The changes mean more landowners may need to apply for permits for work affecting water that now falls under federal jurisdiction. But some environmental law experts say the rule is so broad that it's unclear whether farmers like Calvert will be affected.

The environmental agency says the rule — meant to clarify the definition of "waters of the United States" — only expands the agency's jurisdiction by about three percent, and is needed to protect drinking water supplies. It won't add economic burdens to farmers and ranches, the agency says. Texas farmers won't need permits to plow, plant or graze.

But Texas Attorney General Ken Paxton has claimed the rule is "unworkable" and that "virtually every river, stream and creek in the U.S. will come under the oversight of bureaucrats in Washington."

The rule is already in muddy legal waters. Hours before it took effect Friday, U.S. District Court Judge Ralph Erickson of North Dakota granted a request from 13 states — not including Texas — to temporarily block the regulation. But the EPA said it would continue to enforce it in the 37 others states not affected by the suit.

Much of the anger comes from a dispute over whether the rule enlarges the EPA's jurisdiction. The Clean Water Act made it illegal to pollute "navigable waters of the United States," and the agency always believed its jurisdiction stretched beyond traditional navigable waters — like rivers and seas — to smaller bodies of water and wetlands that can affect them. The updated definition is intended to formally establish that authority.

When the EPA first introduced the proposed rule in March 2014, Texas politicians, agencies and business groups were quick to label it as federal overreach. More than half the states have sued, claiming the rule wrenches power away from states and threatens farmers and industries with red tape.

Calvert's confusion reflects wider uncertainty as the U.S. Environmental Protection Agency's new Waters of the U.S. rule kicks in, extending the agency's regulatory power to smaller bodies of water, including some streams that only flow after heavy precipitation.

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The changes mean more landowners may need to apply for permits for work affecting water that now falls under federal jurisdiction. But some environmental law experts say the rule is so broad that it's unclear whether farmers like Calvert will be affected.

The environmental agency says the rule — meant to clarify the definition of "waters of the United States" — only expands the agency's jurisdiction by about three percent, and is needed to protect drinking water supplies. It won't add economic burdens to farmers and ranches, the agency says. Texas farmers won't need permits to plow, plant or graze.

But Texas Attorney General Ken Paxton has claimed the rule is "unworkable" and that "virtually every river, stream and creek in the U.S. will come under the oversight of bureaucrats in Washington."

The Texas Farm Bureau, the Texas and Southwestern Cattle Raisers Association and local county farm organizations said they haven't been able to give members clear guidance on how to prepare for the rule because they don't fully understand how strictly it will be enforced, or if it will be upheld in court. Concern is high in Texas, where most land is privately owned and the state leads the nation in the number of farms and ranches.

Under federal law, landowners can't pollute or dredge land near any water under federal jurisdiction without obtaining a permit, a process they say will be costly and time-consuming.

"Farmers and ranchers, we just have to watch our bottom lines because of the prices that we go by with cattle and with commodities, they're always fluctuating," said Calvert, president of the Denton County Farm Bureau. "The cost factor of that permit, that could be huge." The stakes are potentially high — the fine for dredging near protected water without a permit can go as high as \$16,000 per day.

Particularly troubling to some critics is language in the rule giving the agency authority over ephemeral water sources, streams that flow only seasonally. One in three Americans get drinking water from streams that only flow seasonally or after heavy rain, according to the EPA.

The agency's rationale is that protecting drinking water requires protecting all the water sources that flow into drinking water. And in Texas, environmentalists point to an example to illustrate the rule's importance. In 2007, crude oil spilled in Edwards Creek, a seasonally flowing stream in Titus County. The EPA wanted to demand a cleanup, but couldn't prove its jurisdiction over a creek that only sometimes has flowing water.

But critics say the regulation creates backdoors that will allow the agency to creep in and claim authority over private property in the name of clean water. For example, provisions in the rule allow the EPA to regulate any water body if it has a "significant nexus" to water already under federal jurisdiction and if it's less than 4,000 feet from the high water mark of water already under federal jurisdiction or it falls in a floodplain.

"If you go into a farm field or pasture and you see there's a river that goes into a creek that goes into a stream and it keeps getting smaller, almost all of that is covered now" said Jim Bradbury, a Fort Worth-based environmental attorney. "It's a big regulatory change."

Landowners can request a jurisdictional determination — to see if they will need a permit to move soil or emit pollutants — from the U.S. Army Corps of Engineers. But the Texas Farm Bureau is not encouraging farmers or ranchers to seek that determination yet, said Regan Beck, the bureau's government affairs director.

"This is a fluid situation," Beck said. "The rule has been challenged by numerous other states including Texas and its not settled how this will end up."

"It's very vague, it's very broad. There's no way that you can prepare for this and be certain that you're going to be unaffected," he added.

When Texas filed a suit with Louisiana and Mississippi, it described a lengthy seven-step process for landowners to determine whether they had water features that fall under federal jurisdiction. The state alleged this determination required Texans to measure a high water mark, a high tide line and have knowledge of floodplains, areas prone to flooding in the last 100 years.

"It is unrealistic for the Federal Agencies to expect that landowners will possess the expertise, patience, and resources to employ this onerous test," the states claimed in the suit.

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CLOSE X



Colorado Mine Spill Prompts Changes in Warning System

Colorado mine spill prompts change in state warnings; New Mexico upset by late notice from EPA

By DAN ELLIOTT

The Associated Press

DENVER

A massive wastewater spill from an old gold mine in Colorado has prompted state officials to expand the list of downstream users they will warn after such accidents.

Last month, Colorado health officials notified only agencies inside the state after 3 million gallons of water tainted with heavy metals gushed out of the Gold King mine near Silverton and eventually reached the Animas, San Juan and Colorado rivers in New Mexico and Utah.

In the future, the Colorado Department of Public Health and Environment will warn downstream states as well, department spokesman Mark Salley said.

Colorado officials didn't know the magnitude of the spill when they issued their warnings, he said.

Officials in New Mexico were unhappy because they say the federal Environmental Protection Agency didn't alerted them when an EPA-supervised crew inadvertently triggered the spill about 70 miles from the New Mexico border.

The crew was trying to enter the mine as part of a cleanup operation and breached a debris pile that was holding back the water.

New Mexico officials first heard about the spill nearly 24 hours after it happened from the Southern Ute Indian Tribe, not the EPA, said Chris Sanchez, a spokesman for Gov. Susana Martinez.

The Southern Ute reservation straddles the Animas River in Colorado, and tribal officials had been alerted by the Colorado health department.

New Mexico officials contacted the EPA after hearing from the Southern Utes, Sanchez said.

"The EPA to this day has not been able to answer why the agency never contacted the state of New Mexico," Sanchez said in an email to The Associated Press.

EPA spokesman David Gray said he spoke to New Mexico's Environment Department about the spill at midday Aug. 6, a day after it occurred. Gray, who works in the EPA's Dallas regional office, said that was shortly after he learned about it.

New Mexico is part of a Dallas-based EPA region; Colorado is part of a separate region with headquarters in Denver.

The EPA has come under sharp criticism for causing the spill and for its handling of the aftermath. At least four congressional committee hearings are scheduled, starting Sept. 9.

The EPA's inspector general is investigating. The Interior Department, which is separate from the EPA, is also investigating, with the help of the Army Corps of Engineers.

EPA Administrator Gina McCarthy has said the agency accepts responsibility for the spill, calling it tragic and unfortunate.

The EPA has said water quality is returning to pre-spill levels. Colorado health officials said it is safe to eat trout from the Animas River.

Follow Dan Elliott at <http://twitter.com/DanElliottAP>

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Water Pollution

Navajo Nation Seeking FEMA Help After Colorado Spill



By Tripp Baltz

Sept. 2— The Navajo Nation has officially requested the appointment of a federal disaster recovery coordinator from the Federal Emergency Management Agency to assist the tribe as it recovers from the Animas River spill.

"An FDRC could assist the Nation to effectively assess the short- and long-term impact of the disaster, determine priorities, and activate a recovery support strategy," Russell Begaye, president of the nation, said in a Sept. 1 statement.

Impacts of the "toxic chemical spill" are already affecting crucial areas of the nation's land, waters, crop production, livestock raising and economic resources, he said.

"The authority of an FDRC to coordinate assistance from other federal agencies would enable a focus of federal resources and seamless coordination to effectively respond to this disaster," he said.

The Environmental Protection Agency accidentally triggered the release Aug. 5 from the Gold King Mine near Silverton, Colo., spilling some 3 million gallons of mining waste and sediment into the Animas River watershed (153 DEN 1, 8/10/15).

Plume Downriver

Water contaminated with arsenic, cadmium, mercury, lead and other metals washed down Cement Creek and into the Animas and San Juan rivers in Colorado and New Mexico before flowing into Lake Powell in Utah.

The EPA said the water quality of rivers has since returned to pre-event levels and the plume of waste had "no significant impact" on Lake Powell. But the incident forced the closure of municipal water supply and irrigation district water intakes and likely inundated private wells in the three states and tribal lands in the Four Corners region.

In a letter to FEMA Administrator W. Craig Fugate, Begaye said that although the EPA has been appointed as the lead federal agency responding to the disaster, FEMA is best positioned and "structured to coordinate all available assistance, long term planning, assessment of impacted communities and developing a recovery support strategy."

The spill "has critically impacted the [San Juan] River and its dependent ecosystems including wildlife, fish populations, and the land base adjacent to the River," he said. The Navajo Nation Commission on Emergency Management declared the toxic chemical spill a disaster on August 9, he said.

The contamination also has affected crops and livestock of the nation's farmers and ranchers, he said.

On Sept. 2, the Colorado Department of Public Health and Environment announced that testing indicates trout from the Animas River are safe to eat. Most fish tissue analyzed after the Gold King Mine release showed metals below detectable levels.

"Levels of mercury, selenium and arsenic in rainbow and brown trout were within the range of levels of fish previously sampled in the state," the department said. Those results most likely represent background levels, not a change in levels because of the spill, the department said.

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For More Information

President Begaye's letter is available at <http://www.navajo-nsn.gov/News%20Releases/OPVP/2015/sep/President%20Begaye%20requests%20Appointment%20of%20FEMA%20Disaster%20Recovery%20Coordinator.pdf>

Colorado's website on the spill is <https://www.colorado.gov/pacific/cdphe/animas-river-spill>.

Contact us at <http://www.bna.com/contact/index.html> or call 1-800-372-1033

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